

**Energy Reducers, Inc. and James Parker. Case 4-
CA-20654**

January 15, 1993

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

Upon a charge filed by James Parker, the General Counsel of the National Labor Relations Board issued a complaint against Energy Reducers, Inc., the Respondent, alleging that it has violated Section 8(a)(3) and (1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file an answer.

On December 21, 1992, the General Counsel filed a Motion for Summary Judgment. On December 23, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all the allegations in the Complaint shall be considered to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that by letter dated November 12, 1992, counsel for the General Counsel notified the Respondent that unless an answer was received by the close of business November 23, 1992, a Motion for Summary Judgment would be filed. To date, no answer has been filed by the Respondent.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation with an office and place of business in Cinnaminson, New Jersey, has been engaged in the business of the maintenance and service of heating, ventilating, and air-conditioning equipment. During the year preceding issuance of the complaint, a representative period, the Respondent, in

the course and conduct of its operations, purchased and received at its Cinnaminson, New Jersey facility goods valued in excess of \$50,000 directly from points outside the State of New Jersey. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the New Jersey State Committee Representing the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO, Locals 9, 274, 322, 475 (the Union) is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

On or about December 4, 1991, the Respondent discharged employee James Parker because the latter supported and assisted the Union. We find that in so doing, the Respondent has discriminated and is discriminating against its employees with respect to their hire or other terms and conditions of employment, and is thereby discouraging membership in a labor organization in violation of Section 8(a)(3) and (1) of the Act.

CONCLUSION OF LAW

By discharging James Parker because he supported and assisted the Union, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(3) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. The Respondent shall be required to offer employee James Parker immediate and full reinstatement to his former position or, if that position no longer exists, to a substantially equivalent position, without prejudice to his seniority or other rights and privileges previously enjoyed, and to make him whole for any loss of earnings and other benefits suffered as a result of the discrimination against him. Backpay is to be computed in the manner prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). We shall also order the Respondent to expunge from its files any and all references to the discharge of Parker, and to notify him in writing that this has been done.

ORDER

The National Labor Relations Board orders that the Respondent, Energy Reducers, Inc., Cinnaminson, New

Jersey, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Discharging or otherwise discriminating against employee James Parker, or any other employee, for supporting and assisting the New Jersey State Committee Representing the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO, Locals 9, 274, 322, 475, or any other labor organization.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Offer James Parker immediate and full reinstatement to his former position or, if that position no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed, and make him whole for any loss of earnings and other benefits suffered as a result of the discrimination against him, in the manner set forth in the remedy section of the decision.

(b) Remove from its files any reference to the unlawful discharge and notify James Parker in writing that this has been done and that the discharge will not be used against him in any way.

(c) Preserve and on request make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amounts due under the terms of this Order.

(d) Post at its facility in Cinnaaminson, New Jersey, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted

by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT discharge employee James Parker, or any other employee, for supporting or assisting New Jersey State Committee Representing the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO, Locals 9, 274, 322, 475, or any other labor organization.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL offer James Parker immediate and full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed, and WE WILL make him whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings, plus interest. WE WILL notify James Parker, in writing, that we have removed from our files any reference to his discharge and that the discharge will not be used against him in any way.

ENERGY REDUCERS, INC.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."